IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6215 of 2007()

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CRIME NO.38/07 OF THIRUPURAM EXCISE RANGE.

PETITIONER: 1ST ACCUSED:

RUFES @ ANI, S/O.VARGHESE,
RODARIKATHU PUTHEN VEEDU, THEKKUMKARA,
PLANKALA, KUZHIKKATTUKONAM, KUNNATHUKAL DESOM,
KUNNATHUKKAL VILLAGE.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.SHAJIN S.HAMEED

RESPONDENTS:

THE STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6215 OF 2007

Dated this the 16th day of October, 2007

ORDER

Application for regular bail. The offence alleged is under the Kerala Abkari Act. It is alleged that on 19/8/07 the petitioner, as driver, was transporting 1904 litres of spirit when he was intercepted by the Excise officials. It is the case of the prosecution that the petitioner is the owner of the vehicle also, though he is not the owner as per the Registration Certificate. Investigation is in progress. The co-accused, who were along with the petitioner at the relevant time, had allegedly took to their heels. Investigation is not complete.

2. The learned counsel for the petitioner prays that the petitioner may be granted regular bail. This application is opposed by the learned Public Prosecutor.

3. In the wake of opposition by the learned Public

Prosecutor, bail can be granted to the petitioner only if this Court is in a position to entertain both the satisfactions contemplated in Sec.41A of the Kerala Abkari Act. At this stage and on the basis of the materials presently available, I am unable to entertain either of those two satisfactions.

4. This petition, in these circumstances, deserves to be and is hereby dismissed; but with the observation that the dismissal of this petition will not fetter the rights of the petitioner to move the courts for bail, if he is entitled under Sec.167(2) of the Cr.P.C. or later – not prior to 27/10/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge